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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,865	09/22/2003	Hirokazu Nishimura	17044	1153
23389 7590 12/09/2008 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER				
SYED, ATIA K				
ART UNIT		PAPER NUMBER		
4185				
MAIL DATE		DELIVERY MODE		
12/09/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/667,865

**Applicant(s)**

NISHIMURA ET AL.

**Examiner**

ATIA SYED

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☒ Claim(s) 1-22 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 09/22/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- a. Group A, claim(s) 1-14, drawn to Diagnostic support apparatus and method with possibility to create diagnostic support information.
  - b. Group B, claim(s) 15-16, drawn to Information processing apparatus with creation and management of image and table lists.
  - c. Group C, claim(s) 17-22, drawn to Diagnostic support apparatus with blood vessel extraction means.
2. The inventions listed as Groups **A**, **B** and **C** do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Claims **1-12** disclose a "diagnosis support apparatus" which is considered to be a "single invention" and compared with the inventions of the other claims.

The disclosure of claims **13, 14** related to a "method" associated with the same technical matter as those of claims 1-12 related to a "diagnosis support apparatus" belong to a category different from that of claims 1-12 and are therefore considered to satisfy the requirement of unity of invention on the basis of the determination method on unity of invention under PCT rule 13.3. Claims **1-14** are thus grouped together under **group A**.

The disclosure of claims **15, 16** relate to an "information processor", which have no technical relationship in respect of "special technical feature" with the inventions of claims 1-12 related to a "diagnosis support apparatus" and are therefore considered not to satisfy the requirement of unity of invention on the basis of the determination method on unity of invention under PCT rule 13.3. Claims **15-16** are thus placed in a separate group i.e **group B**.

3. The disclosure of claims **17-22** relate to a "diagnosis support apparatus", which have a technical feature of comprising a means for extracting a transparent blood vessel image of image data input from an endoscope apparatus and for quantifying the running state of the transparent blood vessel image, have no technical relationship in respect "special technical feature" with the inventions of claims 1-12 related to a "diagnosis support apparatus" and with the inventions of claims 15-16 related to a "information processor" and are therefore considered not to satisfy the requirement of unity of invention on the basis of the determination on unity of invention under PCT rule 13.3. Claims 1-22 therefore do not satisfy the requirement of unity of invention and are considered a different group, i.e **group C**.

A telephone call was made to (516) 742-4343 on December 1<sup>st</sup>, 2008 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ATIA SYED whose telephone number is (571)270-7134. The examiner can normally be reached on Monday through Friday, 9:00-5:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrell Mckinnon can be reached on (571) 272-4797. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ATIA SYED/

Examiner, Art Unit 4185

11/25/2008

/Terrell L Mckinnon/

Supervisory Patent Examiner, Art Unit 4185